IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 16323 of 2005

For Approval and Signature:

HON'BLE MR JUSTICE AKIL KURESHI

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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SHAH PRAFULLABEN JITENDRAKUMAR & 2 - Petitioner(s)

Versus

COLLECTOR-GANDHINAGAR & 1 - Respondent(s)

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Appearance :
MR JV JAPEE for Petitioner No(s).: 1,2,3.
MR PR ABICHANDANI, AGP for Respondents.
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CORAM : HON'BLE MR JUSTICE AKIL KURESHI

Date : 09/08/2005

ORAL JUDGMENT

Rule. Learned AGP Mr.Abichandani waives service of rule on behalf of the respondents. At the joint request of the learned advocates appearing for the parties, the petition is taken up for final disposal today.

2. In the present petition, the petitioners have challenged the order dated 9.4.2004 passed by the Collector, Gandhinagar as confirmed by the order dated 9.5.2005 passed by the Joint Secretary (Appeals), Revenue Department, Government of Gujarat. The petitioners had participated in a public auction for a plot of land bearing No.758/1 of Sector 7, Gandhinagar for which a notice was issued on 5.8.2003. The actual auction had taken place on 24.10.03. The upset price for the plot in question fixed by the authorities was at the rate of Rs.4880 per sq. meters for a plot size of 140.62 sq. meters. The petitioners' offer of purchasing the plot at the rate of Rs.7048 per sq. meter was not only higher than the upset price but was also the highest bid received by the respondents. The Collector, however, by his impugned order dated 9.4.2004 was pleased to reject the offer of the petitioners and refused to confirm the sale. In his impugned order, the Collector was pleased to come to the conclusion that the plot in question did not receive adequate price and the sale was therefore not confirmed. To come to the above conclusion, the Collector relied on a report of the Valuation Committee. Though the petitioners were permitted to make

representation by the Collector, valuation report was never supplied to the petitioners. From the order passed by the Collector, it appears that the main foundation for rejecting the offer of the petitioners was the valuation report, a copy of which, as mentioned above, was never supplied to the petitioners. The Government in the revision application filed by the petitioners was pleased to confirm the order passed by the Collector and upheld the view of the Collector that the price offered by the petitioners was not adequate for the plot in question.

3. Though it is true that for confirming a sale transaction through public auction, certain degree of discretion is vested with the Government to come to the conclusion that the price offered by the petitioners was not adequate, the authorities had to follow proper procedure. When the main basis for finding that the offer was not adequate is a valuation report submitted by the Committee, copy thereof ought to have been supplied to the petitioners permitting the petitioners to produce material to rebut the conclusions of the Valuation Committee. This having not been done, I am of the opinion that the matter is required to be remanded to the

Collector for reconsideration.

4. For the above purpose,the impugned orders dated 9.4.2004 passed by the Collector and 9.5.2005 passed by the Joint Secretary are quashed and set aside. The proceedings are remanded back to the Collector for reconsideration after supplying the petitioners a copy of the valuation report permitting the petitioners to produce such material as the petitioners choose. The Collector shall decide the question afresh in accordance with law as expeditiously as possible and preferably within a period of three months from the date of receipt of a copy of this order. Until such time the said exercise is completed, the plot in question shall not be offered for re-auction. With these directions, the petition is disposed of. Rule is made absolute accordingly with no order as to costs.

(Akil Kureshi, J.)

(vjn)